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**RECEIVED** **FRANK HOOD**  
**2807 FERNDAL ST.**  
**HOUSTON, TEXAS 77098**  
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FEDERAL COMMUNICATIONS  
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SECRETARY

February 8, 1995

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*RM 8577*

Via Federal Express Overnight Delivery

Federal Communications Commission  
Attn: Ms. Regina Keeney  
WTB Bureau Chief  
2025 M Street, N.W.  
Washington, D.C. 20554

RE: Cellular Tower Regulation within the City of Houston, Texas

Dear Ms. Keeney:

I write this letter as one intimately familiar with the issues surrounding the regulation of cellular tower construction within the City of Houston, Texas. At the time the City of Houston Tower Regulation Ordinance was drafted, written, and finally adopted by the city council, I had participated in many months of often weekly meetings with elected city officials, representatives from various city departments, representatives of both cellular service providers in Houston, and finally with many other concerned citizens from neighborhoods throughout the city.

As the Commission is doubtless aware, Houston has no zoning ordinance. In neighborhoods throughout the city, residents without the means to enforce deed restriction covenants are helpless victims to the next opportunistic commercial invasion.

Such was the case for the cellular industry before the Tower Ordinance. In a particularly illustrative example, Houston Cellular (one of the two service providers in Houston) purchased a 50' x 100' residential lot on Bonnie Brae Street. The lot was on a block with a well-kept esplanade tended by the residents. The homes on the block were single story bungalows and cottages except for the vacant lot purchased by Houston Cellular. The surrounding blocks were residential. Overnight, Houston Cellular began erection of a 120' cellular transmission tower on the residential lot. Fortunately, the neighborhood organized a vocal demonstration that brought attention to the problem. Ultimately, with cooperation with the City of Houston Fire Department, the transmission facility was relocated two blocks away to an existing 200' tower. Yet without the neighborhood protest and in the absence of zoning regulations, there would today be a tower on Bonnie Brae sitting squarely among cottages and bungalows.

It is very important to know that Houston, due to its lack of zoning, is a very special situation that deserves special consideration in any proposed change that could negatively effect or nullify existing tower regulation ordinance(s) in place today that offer a degree of protection to fragile neighborhoods.

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Federal Communications Commission  
Ms. Regina Keeney, WTB Chief  
Page Two  
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713 - 739-9100

In an effort to explain the unique situation faced in Houston, I would be willing to testify before the FCC as to my knowledge of the immense negative impact unregulated cellular towers will have on our residential neighborhoods in Houston, Texas, that today have no protection from commercial intrusion. I can be reached at my office 713/739-9100 or home 713/522-7373.

As a citizen deeply concerned about these fragile inner-city residential neighborhoods, I implore you to carefully evaluate our situation in Houston, Texas today in the unique way it exists before you pre-empt our local ordinance that regulates cellular tower construction in our city.

Sincerely,



Frank Hood

FH:glb

cc: Mayor Bob Lanier, City of Houston  
Donna Kristaponis, Director Planning & Development, City of Houston

# METROPOLITAN

Local & State

Deaths, 18A  
Weather, 19A  
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## Cellular phone lobby fights for towers

By JULIE MASON  
Houston Chronicle

### End is sought to local limitations

The cellular phone industry is asking the federal government to pre-empt all local regulations on the placement of cellular towers, such as Houston's 1991 tower ordinance.

Industry lobbyists have told the Federal Communications Commission that state and local regulations unfairly restrict competition in the booming wireless industry.

"The cellular industry has consistently grown between 30 to 40 percent every year,

which is pretty rapid growth," said Jon Slater, vice president and general manager of GTE Mobilnet. "Just 10 years ago, no one knew cellular. Now there are 16 million customers across the country."

A federal pre-emption could have a significant impact on an unzoned city such as Houston, which regulates tower placement through a 1991 ordinance. Houston has more than 70 cellular towers, including 40-plus that were installed since the ordinance was enacted.

Larry Shaefer, president of Communications Inc., who helped develop the city ordinance, said he is opposed to deregulation of tower placement.

"The rules are real simple," said Shaefer, whose paging and two-way radio business includes three towers in the city. "I don't think that going to the federal government to not have any rules is very productive."

The tower ordinance includes regulations addressing setbacks, landscaping, tower height and a requirement for public hear-

ings before installation. The law also restricts towers to commercial areas with clear fall zones in every direction.

The law became necessary, according to its architect, former Councilman Jim Greenwood, because towers started popping up in residential areas as the cellular industry began its growth surge.

"The proliferation of those towers was proving calamitous for a lot of neighborhoods in Houston," Greenwood said. "I think it would be a shame for that industry now to try to dismantle the very reasonable regula-

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# Cellular

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tions that were put in place."

The FCC filing was made last month by the Washington-based Cellular Telecommunications Industry Association, the national trade organization of the wireless industry.

In a prepared statement, CTIA President Thomas E. Wheeler said Congress never intended local zoning regulations to outweigh issues of competition and parity.

"Ubiquitous wireless service — including wireless service to schools, libraries and public safety agencies — requires ubiquitous cell sites," Wheeler said. "Will more than 38,000 local governments and 'Not In My Backyard' activists be allowed to thwart a national pathway of cell sites necessary for provision of wireless service, often for parochial or ill-informed reasons?"

Donna Kristaponis, director of the city Planning & Zoning Department, said if the case proceeds, the city is likely to join with other opponents — including the National League of Cities, in opposing deregulation of tower sites.

Kristaponis, however, said similar efforts to deregulate placement of television and radio communication towers have been unsuccessful.

Shaefer noted that there are ways to make the towers more acceptable to neighborhoods, including new designs available to disguise a tower as a pine tree, flagpole, clock tower or a large cross.

Slater of GTE Mobilnet said he has not decided his position on the request to the FCC. However, he said the high consumer demand already requires that his company add to the 200 towers already serving the Texas region.

"When cellular technology first came out, it was considered rather an expensive business tool. Now customers purchase them for safety and security and, well, communication at the very low end of the scale," Slater said. "Demand is such that we have to keep adding sites, and do so with as few impediments as possible to meet that demand."

If the FCC decides to proceed with consideration of a new rule preempting local regulations on tower placement, the issue will be opened for submission of comments before any further action is taken. The public comment process could take up to a year.